

## **REMARKS**

### **I. Status of Claims**

Claims 1-2 and 5-16 are currently pending with claims 1-2 and 8 being independent. Claims 1 and 8 are currently amended. Support for the foregoing amendments can be found at least in page 16, lines 16-30, and page 17, lines 5-7, of the specification in relation to Figs. 5 and 6. Thus, it is respectfully submitted that no new matter has been introduced. Claims 3-4 were previously canceled

Claims 1, 6-9, and 11 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,952,918 (“Imai”) in view of U.S. Patent No. 4,509,327 (“Enga”).

Claims 5, 10, 12 and 13 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2 and 14-16 are allowed.

The Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendments and the following remarks.

### **II. Priority Application**

The Examiner indicates that a certified copy of the priority document has not been received. Accordingly, the Applicant filed a communication regarding the certified copy of the priority document on March 23, 2010.<sup>1</sup>

The Applicant respectfully requests acknowledgement of the priority document.

### **III. Remarks Regarding the Rejection of Claims 1 and 8 Under § 103**

Claims 1 and 8 stand rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Imai in view of Enga.

The Applicant respectfully submits that claims 1 and 8 are patentable over the cited

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<sup>1</sup> Also, the Applicant’s representative was informed that a certified copy of the priority document was obtained by a PCT Legal Administration staff member and placed in the image file wrapper.

references at least because they recite, *inter alia*, "...switches/switching the heating of the exhaust purification apparatus from the normal heating to the burn-up heating when the estimated accumulation amount obtained in a period in which heating of the exhaust purification apparatus is being performed becomes less than or equal to the burn-up start determination value...."

As will be explained below, at least this feature is a distinction over each of Imai and Enga, and thus over their combination.

The Office Action states:

*Regarding claims 1, 8, 9, Imai discloses ... wherein the control section performs burn-up heating when the estimated accumulation amount is less than a burn-up start determination value and performs normal heating when the estimated accumulation amount is greater than the reference accumulation amount and the burn-up start determination value (see col. 10, lines 14-30)...*

In col. 10, lines 8-30 of Imai, regenerating A and B mode operations are discussed. In the preceding paragraph of col. 10, lines 7-13, Imai states:

*in the regeneration control flow of the first embodiment of the present invention, as shown in the regeneration control flow of FIG. 2, the clogged-state is divided into three phase of clogging, to check the start of regenerating mode operation, by two clogging-judgments of degree of clogging of the filter. (Emphasis added)*

And, in col. 10, lines 38-45, Imai states:

*First, when this regeneration control mode starts, in a step 521, it is judged if it is in the regenerating mode operation or not, and if it is in the regenerating mode operation, the current regenerating mode operation is sustained.*

*In case where it is judged not to be the regenerating mode operation, in the judgment of the step S21, it is judged if it is the time to start of the regenerating mode operation from a step 522 to a step 524. (Emphasis added)*

Accordingly, it is alleged that Imai discloses that one of the regenerating mode operations is selectively performed when no regenerating mode operation is being performed (NO in S21) and that the degree of clogging state to be checked in the subsequent steps (S22,

S23 and S27) is obtained when no regenerating mode operation is being performed. Hence, the noted feature of the inventions of claims 1 and 8, namely, “the control section switches the heating of the exhaust purification apparatus from the normal heating to the burn-up heating when the estimated accumulation amount obtained in a period in which heating of the exhaust purification apparatus is being performed becomes less than Or equal to the burn-up start determination value” is a distinction over Imai.

The Office Action does not contend that Enga discloses the above noted feature of the inventions of claims 1 and 8. Hence, it appears that the Office Action recognizes that Enga does not address the deficiencies of Imai.

With that said, lacking any teaching and/or identifying a reason for modifying Imai and/or Enga in the manner as claimed in the inventions of claims 1 and 8, it is respectfully submitted that the cited references fail to render the same obvious. As discussed in *KSR Int’l Co. v. Teleflex Inc.*, it remains necessary to identify the reason why a person of ordinary skill in the art would have been prompted to combine alleged prior art elements in the manner as claimed. 550 U.S. 398, 418 (2007). Mere conclusory statements are insufficient. *Id.*; MPEP § 2143.01(IV).

Therefore, based on the foregoing, the Applicant respectfully submits that claims 1 and 8, as well as their dependent claims, are patentable over the cited references.

**IV. Conclusion**

In light of the above discussion, the Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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